

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In Re:

Case No. 17-04014-SWD

KEVIN MARK WIGGER

Chapter 7

Debtor.

Hon. Scott W. Dales

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KEVIN MARK WIGGER

v

Adv. Case No. 18-80149-SWD

STATE TREASURER,  
WILLIAM A. VAN ECK,  
ADA YOUNG, and  
GEORGE WIGGER,

Defendants.  
\_\_\_\_\_

**DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), Defendant State Treasurer hereby designates items to be included in the record, and states the issues to be presented, on its appeal from the Judgment in an Adversary Proceeding (Docket No. 54) and Memorandum of Decision and Order (Docket No. 53) and, both entered August 26, 2019.

**I. Pleadings/Court Documents/Exhibits<sup>1</sup>**

<b>Index #</b>	<b>Filing Date</b>	<b>Docket #</b>	<b>Docket Text</b>
1	11/30/2018	1	Adversary case 18-80149. 65 (Dischargeability – other): Complaint by Kevin Mark Wigger against State Treasurer, William A. Van Eck, Ada Young, George Wigger. Fee is EXEMPT.
2	12/26/2018	11	Motion to Dismiss Adversary Proceeding Filed by Defendant State Treasurer (Attachments: # 1 Notice & Opportunity to Object # 2 Proposed Order # 3 Brief/Memorandum # 4 Proof of Service)
3	01/10/2019	17	Response to (related document(s): 11 Motion to Dismiss Adversary Proceeding) Filed by Plaintiff Kevin Mark Wigger (Attachments: # 1 Brief # 2 Amended Schedules A/B-C # 3 Certificate of Service)
4	01/14/2019	20	Scheduling Order (RE: related document(s)14 Motion to Dismiss and 15 Motion to Dismiss). Signed on 1/14/2019
5	01/15/2019	21	Response to (related document(s): 17 Response) Filed by Defendant State Treasurer (Attachments: # 1 Proof of Service)
6	02/08/2019	26	Exhibit <i>Supplement To Defendant State Treasurer's Brief In Support Of Motion To Dismiss Case</i> (RE: related document(s)21 Response). (Attachments: # 1 Attachment A # 2 Proof of Service) Filed by Defendant State Treasurer

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<sup>1</sup> Designation of an item includes all exhibits, supplements, and appendices to the item.

7	02/26/2019	28	Order (Related Doc # 11 Motion to Dismiss, # 14 Motion to Dismiss, # 15 Motion to Dismiss) Signed on 2/26/2019.
8	03/18/2019	31	Order. Signed on 3/18/2019
9	03/19/2019	32	Supplemental Brief <i>Pursuant to the Court's 2/26/19 Order</i> (RE: related document(s) 28 Order). (Attachments: # 1 Proof of Service for ECF # 2 Proof of Service for Wigger) Filed by Defendant State Treasurer
10	04/08/2019	33	Plaintiff's Supplemental Brief in Response to Defendant State Treasurer's Supplemental Brief Pursuant to the Court's 2/26/19 Order (RE: related document(s)32 Brief, 28 Order on Motion to Dismiss Adversary Proceeding) (Attachments: # 1 Proof of Service) Filed by Plaintiff Kevin Mark Wigger
11	04/16/2019	35	Memorandum of Decision and Order. (RE: related document(s)1 Complaint filed by Plaintiff Kevin Mark Wigger, 11 Motion to Dismiss Adversary Proceeding filed by Defendant State Treasurer).
12	04/29/2019	38	Motion to Reconsider Memorandum of Decision and Order (related documents 35 Opinion and Order) Filed by Defendant State Treasurer
13	04/30/2019	39	Notice of Opportunity to Object (related documents 38 Motion to Reconsider, Reinstate, Vacate, Set Aside or Revoke) Filed by Defendant State Treasurer. (Attachments: # 1 Proof of Service)
14	04/30/2019	40	Memorandum of Decision and Order. (RE: related document(s)38 Motion to

			Reconsider, Reinstate, Vacate, Set Aside or Revoke filed by Defendant State Treasurer).
15	05/02/2019	41	Memorandum of Decision and Order. (RE: related document(s)37 Motion for Entry of Default Judgment filed by Plaintiff Kevin Mark Wigger).
16	05/07/2019	42	Answer to Complaint Filed by State Treasurer. (Attachments: # 1 Proof of Service)
17	05/09/2019	43	Order Establishing Dates for 7026(f) Conference, Filing Discovery Plan and Scheduling Pretrial Conference. Parties shall meet in person or telephonically at least once on or before the pretrial conference is held to satisfy requirements pursuant to FRBP 7026(f). A report signed by all parties outlining discovery plan shall be filed with the Court on or before 14 days after 7026(f) conference. Signed on: 5/9/2019. (RE: related document(s) 1 Complaint filed by Plaintiff Kevin Mark Wigger) Pre-Trial Conference set for 7/12/2019 at 11:00 AM at Judge Dales Courtroom (Courtroom A).
18	05/17/2019	45	Motion For Summary Judgment Filed by Plaintiff Kevin Mark Wigger (Attachments: # 1 Certificate of Service (Interested Parties))
19	06/04/2019	47	Response to (related document(s): 45 Motion for Summary Judgment) Filed by Defendant State Treasurer (Attachments: # 1 Proof of Service)

20	06/20/2019	48	Request to Participate Via Telephone (RE: related document(s)1 Complaint). Filed by Plaintiff Kevin Mark Wigger
21	06/20/2019	49	Plaintiff's Response to State Treasurer's 47 Response to Plaintiff's 45 Motion for Summary Judgment with Proof of Service
22	06/20/2019	50	7026 Disclosures/Discovery Report (RE: related document(s)43 Order Establishing Dates for 7026(f) Conference). (Attachments: # 1 Proof of Service) Filed by Defendant State Treasurer
23	07/12/2019	51	Order Following Pretrial Conference (RE: related document(s)1 Complaint filed by Plaintiff Kevin Mark Wigger).
24	08/09/2019	52	<i>Brief State Treasurer's Supplemental Brief Following Order Following Pretrial Conference</i> (RE: related document(s)51 Order (Generic/Motion)). (Attachments: # 1 Proof of Service) Filed by Defendant State Treasurer
25	08/26/2019	53	Memorandum of Decision and Order (RE: related document(s)1 Complaint filed by Plaintiff Kevin Mark Wigger).
26	08/26/2019	54	Judgment in an Adversary Proceeding (RE: related document(s)53 Opinion and Order).

## II. Hearing Transcripts

- a. Transcript of hearing held on July 12, 2019. (A request for a copy of the transcript has been filed. A copy of the request is attached hereto.)

**III. Statement of Issues**

- a. Whether the Bankruptcy Court erred in determining that the State Treasurer's lien against the Debtor's Individual Retirement Account is a judicial lien and, therefore, avoided under 11 U.S.C. §522.
- b. Whether the Bankruptcy Court erred in determining that the Debtor's Individual Retirement Account is not liable during or after the Debtor's bankruptcy case, including any claims under the State Correctional Facility Reimbursement Act, under 11 U.S.C. §522.
- c. Whether the Bankruptcy Court erred in determining that the State Treasurer's lien against the Debtor's interest in the collection of a judgment against his son is a judicial lien and, therefore, avoided to the extent of \$799.21 and preserved to the extent of \$11,501.58, under 11 U.S.C. §522.
- d. Whether the Bankruptcy Court erred in determining that the Debtor's interest in the collection of a judgment against his son is not liable during or after the Debtor's bankruptcy case, including any claims under the State Correctional Facility Reimbursement Act, as limited to the exempt and unencumbered portion of his interest, under 11 U.S.C. §522.

DANA NESSEL  
Attorney General

/s/ Katherine C. Kerwin *KCK*  
KATHERINE C. KERWIN (P73070)  
Attorney for Defendant State Treasurer  
Assistant Attorney General  
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Telephone: (313) 456-0140

Date: September 18, 2019

**UNITED STATES BANKRUPTCY COURT - WESTERN DISTRICT OF MICHIGAN**

Please fill out form completely. If questions, call the Clerk's Office: 616-456-2693

Debtor(s): Kevin Mark Wigger	Case No.: 17-04014-SWD
(If Adversary Proceeding): Plaintiff(s):  Kevin Mark Wigger	Adversary Proceeding No.  18-80149-SWD
vs Defendant(s):  State Treasurer	

**REQUEST FOR TRANSCRIPT**

(Complete a separate request for each hearing date)

Is this request for an appeal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Hearing Telephonic? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Hearing (One per request) 07/12/2019
Matter which you wish transcribed: (Title of motion, etc) Pretrial Conference	Docket No. (Optional)	
Do you wish the entire hearing transcribed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If you wish less than the entire hearing transcribed, clearly describe the portion which is being requested.		

**FEES**

Transcript fees are charged per page for the number of copies and delivery time requested. You will be charged for an original transcript provided to you and any additional copies ordered. There is no charge for the copy provided to the court. Please see the maximum rates printed on the next page of this form. Fee must be paid directly to the transcriber. The transcriber will contact you to make payment arrangements. Delivery times commence on the date that payment arrangements are made.

Number of copies requested, i.e. original + additional copies (Do not include the copy provided to the court)

30-day rate ☒  
 14-day rate ☐  
 7-day rate ☐

Party Requesting Transcript:

Name Katherine C. Kerwin (P73070)  
 Address 3030 W. Grand Blvd., Ste 10-200, Detroit, MI 48202  
 Phone (313) 456-0140  
 Fax  
 Email kerwink@michigan.gov

Date: 09/06/2019

I agree to pay all transcript rates

/s/ Katherine C. Kerwin